

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MADISON SQUARE GARDEN, L.P.,
:
Plaintiff,
:
- against - No. 07 CIV. 8455 (LAP)
:
NATIONAL HOCKEY LEAGUE, NA-
TIONAL HOCKEY LEAGUE ENTER-
PRISES, L.P., NATIONAL HOCKEY
LEAGUE INTERACTIVE CYBERENTER-
PRISES, L.L.C., NHL ENTERPRISES CAN-
ADA, L.P., and NHL ENTERPRISES, B.V., :
Defendants. :
:
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DECLARATION OF KEN SAWYER

I, KEN SAWYER, declare under penalty of perjury pursuant to 28 U.S.C.
§ 1746 that the following is true and correct:

1. I am the Chief Executive Officer of the Pittsburgh Penguins (“Pen-
guins” or “Club”), a position I have held since 2006. Prior to that, I served as Executive
Vice President and Chief Financial Officer of the Club from September 1999 and as
President of the Club from March 2003. I submit this declaration in opposition to the
motion of Madison Square Garden (“MSG”) for a preliminary injunction in the above-
captioned matter. I have personal knowledge of the facts stated below.

2. The Penguins support the collective approach as currently contem-
plated toward the development of the Clubs’ websites on the NHL.com common platform.

Since the Club originally launched its website in 1996, the Penguins' efforts to make the website a profitable stand-alone business have not been successful to the degree envisioned by the Penguins. Consequently, the Club is enthusiastic about the possibility of unlocking additional value in its website by migrating to the common technology platform developed by the League and taking advantage of the greater interconnectivity that the common platform promises to deliver. Not only will this initiative help the Penguins in Pittsburgh, but it will also help to raise the Club's profile nationally and internationally.

3. The Penguins' fan base has historically been drawn from the Pittsburgh area, one of the smaller markets in the National Hockey League ("NHL"), and the Club generally does not benefit from the same level of sponsorship, advertising, and merchandising opportunities as those Clubs that play in larger markets. As a stand-alone entity, the Penguins often cannot offer a sufficiently attractive "buy" for large national sponsors and advertisers. However, by operating within a common platform and content management system servicing all thirty Clubs so that sponsors and advertisers can purchase advertising inventory across all thirty sites, we expect that the NHL.com platform will help to attract national sponsors and advertisers in greater numbers and will drive incremental revenue for the Penguins' website.

4. Furthermore, the NHL.com platform will allow the Penguins to reach out to and communicate more effectively with a national and international audience and we expect that it will help us build a broader fan base. This is especially appreciated today, when hockey fans are enthusiastic about following our plentiful array of young stars, who have generated a level of excitement across the NHL that the League has not seen since the 1980s.

5. An expanded national and international presence for the League is vital to help the Penguins harness and exploit the widespread interest in our young team. Furthermore, we expect that the increased web traffic that is anticipated as the League enhances its national brand identity will help us generate incremental revenue from national sponsorships and advertising, which will in turn enhance the value of our website beyond that which the Club could attain independently.

6. In this respect, the Penguins franchise understands that its business prospects are impacted by the success of the other NHL Clubs and of the League itself. The Penguins are part of a professional sports league, and each member of the NHL, in making its independent business decisions, should consider the broader context of how those decisions will impact the League as a whole. No Club can or does exist as a stand-alone business; every Club requires the cooperation of other Clubs, organized through the Constitution and By-Laws into a League, to make its business successful. And that business includes at its core, not only the game on the ice, but the exploitation of available revenue streams from advertisers, sponsors, and broadcasters, all of which are necessary to support the game on the ice and all of which draw their value from the popularity of the product the Member Clubs of the League have jointly produced – a season of professional hockey games culminating in a playoff tournament that produces a single League champion.

7. The Penguins also understand that, in today's marketplace, the NHL competes for fans' time and disposable entertainment income against other professional and collegiate sports, including football, baseball, basketball, soccer, auto racing, golf, and tennis, as well as other sports and entertainment properties. In addition,

NHL.com competes online with other purveyors of sports news generally and hockey news in particular, including ESPN.com, SI.com, CBS.com, Fox.com, Yahoo! Sports, AOL Sports, Deadspin.com, and many others for advertising and sponsorship revenue. The NHL.com standardized format and common platform aggregates the Clubs' individual websites in a way that should be attractive to national sponsors, to utility suppliers, and to consumers. The NHL has proceeded with an initiative to migrate its Clubs' websites onto a common technology platform using a single CMS to offer economies of scale, to lower transaction costs for the sponsor by negotiating a single advertising deal, and to present a common format, elements, and applications to sponsors, advertisers and users. And a standardized template across the thirty Club websites assures advertisers that they will receive uniform exposure on each of those sites, while increasing the familiarity with the website layout and design that will enhance fans' website experience.

8. In short, because the NHL's new media initiative has made so-called "best of breed" features available for each of the Clubs' websites, has improved our ability to monetize our local advertising and sponsorship revenue, has allowed us to create an attractive and user-friendly website experience for our fans and visitors, and is expected to save the individual Member Clubs significant amounts in website-related expenses, the Penguins have supported the website initiative and are pleased with the resulting network.

Dated: Pittsburgh, Pennsylvania
October 11, 2007

A handwritten signature in dark ink, appearing to read 'K. Sawyer', is written over a horizontal line.

Ken Sawyer